PROPOSED CON COMMISSION RESOLUTION ON PROTON BEAM THERAPY

(To be considered by Commission at its meeting on April 30, 2008)

Commission Findings:

Proton Beam Therapy (PBT) is the most expensive medical equipment yet developed. Physician cancer radiation experts at most of Michigan's major hospital cancer programs, and at all four medical schools, testified to the Commission that PBT is an unproven technology. The predominant medical judgment of nearly all these cancer experts was that PBT would be of significant benefit for only a small number of patients (mostly pediatric brain tumors and certain neck tumors in patients of all ages). Beyond that, the predominant medical judgment of cancer medical experts was that they were not yet convinced of the long-term net value to the great bulk of cancer patients with other tumors.

However, there was general agreement among medical experts that Michigan should be involved in the research and evaluation of the benefits for patients that PBT may have for other cancer cases. Having a PBT center in Michigan also could have economic benefits. Constructing a PBT center would take about two years and would require extensive technological leadership to operate. Having one program, jointly sponsored by most major hospital cancer programs, is the best approach for assuring that needed expertise and to best pursue the goals of both patient value and economic benefit. Most importantly, a statewide collaborative provides the best chance for the possible patient and economic benefits of this new type of cancer radiation to be evaluated at the highest possible volume facility, allowing greater statistical validity for the outcomes. Requiring the participation in the collaboration of a majority of hospital-owned MRT centers with equivalent treatment visits above 30,000 would maximize the chances of meeting these goals of high quality in patient treatment and the validity of outcome analyses.

Absent final approval of the MRT Standards (proposed by the Commission on March 11, 2008), there could be multiple PBT centers in Michigan. That would divide the initially expected limited volume of appropriate cases among multiple facilities, resulting in less than desirable validity of outcome analysis. Also the costs of multiple centers, each having the most expensive medical equipment yet developed, would be tremendous. Four hospitals have already requested approval of more than $500 million in initial project costs with more than $100 million in annual operating costs.

A collaborative will require multiple high volume cancer centers to agree on many issues such as the location, size, funding and operation of one PBT center. This collaborative approach, however, should not result in an unacceptable delay in bringing PBT to Michigan. To assure that the members of this

collaborative are expeditiously moving towards accomplishing the goal of bringing PBT to Michigan, the Commission hereby establishes the following criteria for its careful monitoring of this process:

Commission Expectations for Prompt Development of a PBT Collaborative:

1. Commission commits to repeal/modify PBT language in the MRT Standard IF it reaches the conclusion that substantial and timely progress (per expectations described below as number 3, 4, and 5) is not being made to assure Michigan will promptly have a collaborative PBT program.

2. Commission will reach the conclusion about the adequacy of substantial and timely progress being made towards a successful collaborative no later than three months from the effective date of the PBT Standard (thus at its September 16, 2008 meeting).

3. Each of the high volume hospital-owned MRT programs (those eligible to be among the minimally required participants in the collaborative because they are above 30,000 MRT ETVs statewide or are among the highest volume programs in at least two health planning areas) are asked to report in writing to the Commission within 10 days before each scheduled Commission meetings with their assessment of progress in developing a collaborative.

4. By June 5, 2008, the CEOs of those of the high volume hospital-owned programs identified in Section 10 (1) (b) of the CON MRT Standards who have committed to be in the collaborative shall submit a letter to MDCH for review and analysis to be provided to the Commission. This letter will indicate that the respective governing bodies for the participating hospitals have agreed to (a) participate in the collaborative, and (b) contribute their appropriate share of at least $13 million to be the minimum sponsoring hospitals' share of the program.

5. By September 6, 2008, the collaborative is to submit a business plan. That business plan shall include: a proposed financial plan outlining the projected costs and sources of funds for the PBT Collaborative, a proposed governance plan, a proposed time-line for completing the PBT facility, the process and timeline for selecting the PBT equipment manufacturer, and a timely process for identification and purchase/lease of the site.